



# Environmental Guidance Regulatory Bulletin

Office of Environmental Policy & Guidance • RCRA/CERCLA Division (EH-413)

April 2001

## Lead and Lead Compounds; Lowering of Reporting Thresholds; Community Right-to-Know Toxic Chemical Reporting; Final Rule

### Final Rule Issued

**Effective Date: April 17, 2001**

### Background

The Toxic Release Inventory (TRI) reporting requirements are found in section 313 of the Emergency Planning and Community Right-to-Know Act (EPCRA) of 1986 and section 6607 of the Pollution Prevention Act (PPA) of 1990. EPCRA is also referred to as Title III of the Superfund Amendments and Reauthorization Act of 1986 (SARA). [Public Law 99-499] The TRI reporting requirements are codified in 40 CFR Part 372. The purpose of these reporting requirements is to provide the public with information on releases, transfers, and waste management activities of listed toxic chemicals in their communities and to provide EPA with this information to assist the agency in determining the need for future regulations. Section 313 requires certain facilities that manufacture, process, or otherwise use any listed toxic chemical or chemical category listed at 40 CFR 372.65 in excess of threshold quantities, to report certain facility specific information about such chemicals. These threshold quantities (set forth in 40 CFR 372.25) are manufacturing or processing greater than 25,000 pounds or otherwise using greater than 10,000 pounds of a listed toxic chemical per calendar year.

Under EPCRA section 313, Congress gave

EPA the authority to modify certain aspects of TRI reporting requirements. EPA has the authority to change the toxic chemicals subject to reporting, the facilities required to report, and the threshold quantities for reporting. In 1994, EPA expanded the number of reportable toxic chemicals by adding 286 toxic chemicals and chemical categories to the EPCRA section 313 toxic chemical list (62 FR 61432). In 1997, EPA added seven industry groups to the list of facilities required to report under EPCRA section 313 (62 FR 23834).

On October 29, 1999 (64 FR 58666), EPA issued a final rule titled "Persistent Bioaccumulative Toxic (PBT) Chemicals; Lowering of Reporting Thresholds for Certain PBT Chemicals; Addition of Certain PBT Chemicals; Community Right-to-Know Toxic Chemical Reporting." EPA clarified that the new lower reporting thresholds for PBT chemicals are effective with the 2000 reporting year, with the first reports due by July 1, 2001. EPA cited authority under section 313(d) and 313(f) of EPCRA to add or delete chemicals from the section 313 list and to revise reporting thresholds. [See Environmental Guidance Regulatory Bulletin, February 2000 *Persistent Bioaccumulative Toxic (PBT) Chemicals; Lowering of Reporting Thresholds for Certain PBT Chemicals; Addition of Certain PBT Chemicals; Community Right-to-Know Toxic Chemical Reporting* for detailed information on this rule.]

On August 3, 1999 (65 FR 42222), EPA proposed lowering the reporting thresholds for lead and lead compounds which are subject to reporting under section 313 of EPCRA to 10 pounds/year for manufacture, process or otherwise use. EPA believes that lead and lead compounds are PBT chemicals that warrant lower reporting thresholds than those currently established under EPCRA

section 313. This proposal also included a limitation on the reporting of lead when contained in certain alloys and proposed modification to certain reporting exemptions and requirements for lead and lead compounds.

## The Final Rule

On January 17, 2001, EPA issued a final rule titled “[Lead and Lead Compounds; Lowering of Reporting Thresholds; Community Right-to-Know Toxic Chemical Release Reporting; Final Rule](#)” (66 FR 4500)

On February 16, 2001, EPA issued a notice “[Extension of Effective Date for Lowering Reporting Thresholds](#)” (66 FR 10585) that extended the effective date from February 16, 2001 to April 17, 2001.

EPA finalized manufacture, process, and otherwise use thresholds of 100 pounds for lead and lead compounds, with the first reports at this lower threshold due on or before July 1, 2002, for the 2001 calendar year. This lower reporting threshold does not apply to lead contained in stainless steel, brass, and bronze alloys. These remain reportable under the 25,000 pound manufacture and process and the 10,000 pound otherwise use reporting thresholds.

### **Modification to Certain Reporting Exemptions and Requirements**

For lead and lead compounds, as with all PBT chemicals, EPA has not only lowered reporting thresholds, but also modified the following reporting requirements.

#### ***De Minimis Exemption:***

EPA eliminated the *de minimis* exemption for lead and lead compounds. However, the ruling does not affect the applicability of the *de minimis* exemption to supplier notification requirements found at 40 CFR 372.45(d)(1).

### ***Alternate Threshold (Form A)***

EPA also excluded the use of the alternate reporting threshold of 1 million pounds and the use of Form A reporting for lead and lead compounds.

### ***Range Reporting***

EPA eliminated range reporting for on-site releases and transfers off-site for further waste management for lead and lead compounds. This will not affect the applicability of the range reporting of the maximum amount on-site as required by EPCRA section 313(g).

### ***Data Precision***

Facilities should report releases and other waste management quantities greater than 0.1 pound provided the accuracy and the underlying data on which the estimate is based supports this level of precision. Rather than reporting whole numbers and to two significant digits, if a facility’s release or other waste management estimates support reporting an amount that is more precise than whole numbers and two significant digits, then the facility should report that more precise amount. EPA believes that, particularly for PBT chemicals such as lead and lead compounds, facilities may be able to calculate their estimates of release and other waste

*Questions of policy or questions requiring policy decisions will not be dealt with in EH-413 Regulatory Bulletins unless that policy has already been established through appropriate documentation. Please refer any questions concerning the subject material covered in this Regulatory Bulletin to:*

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| <b>Application of TRI Reporting Exemptions and Requirements to PBT Chemicals</b> |  |   |
|--|--|---|
| <b>Exemption or Reporting Requirement</b>  | <b>TRI Chemicals</b>   | <b>PBT Chemicals<br/>(including lead &amp; lead compounds)</b>  |
| <b>De Minimis</b>  | Can Be Utilized  | Can Not Be Utilized   |
| <b>Form A</b>  | Can Be Utilized  | Can Not Be Utilized   |
| <b>Data Precision</b><br>(Half Pound Rule)                                       | 0.5 pounds<br>Can report whole numbers<br>and round releases to<br>nearest 0.5 pound | 0.1 pounds<br>Report releases and other<br>waste management quantities to<br>nearest 0.1 pound  |
| <b>Threshold</b>   | Manufacture or Process<br>25,000 pounds<br><br>Otherwise Use<br>10,000 pounds        | Varies by PBT Chemical<br>(either 10 or 100 lbs/yr;<br>0.1 g/yr for dioxins)<br><br>Threshold is the same for<br>manufacture, process and<br>otherwise use<br><br>Lead = 100 pounds |
| <b>Range Reporting</b>   | Can Be Utilized  | Can Not Be Utilized<br>Except for maximum amount<br>on-site (Form R section 4)  |
| <b>Otherwise Use,<br/>Laboratory &amp; Article<br/>Exemptions</b>                | Can Be Utilized  | Can Be Utilized   |